

REMARKS

Claims 1-25 are pending in the present application. No new matter is inserted into the application.

Restriction Requirement

In response to the Restriction and Election Requirement, Applicants elect Group I, claims 1-9, drawn to a method of HLA typing, with traverse. Further, Applicants elect the following combination of sequences for examination with traverse: SEQ ID NOS 3, 86, 105, 106, and 113.

Applicants respectfully submit that the Examiner has misclassified claims 14-17. These claims should be classified in Group IV rather than Groups II or III. These claims are directed to a kit (claims 14 and 16) or reagent (claims 15 and 17) for typing of HLA class I alleles. Therefore, these claims correspond to "a kit or reagent" as classified in Group IV. For these reasons, Applicants respectfully request that the Examiner reclassify the claims, such that Group II consists of claim 10, Group III consists of claim 11, and Group IV consists of claims 12-17.

Regarding the Restriction Requirement, Applicants respectfully submit that the Examiner has not established that there is an undue burden in searching for all claims as required by MPEP § 803. The "undue burden" requirement created by the U.S. Patent and Trademark

Office is recited in MPEP § 803:

If the search and examination of an entire application can be made without serious burden, the examiner must examine it on its merits, even though it includes claims to independent and distinct inventions.

As further stated in MPEP 803, "[A] serious burden on the examiner may be *prima facie* shown if the examiner shows by appropriate explanation either separated classification, separate status in the art, or a different field of search as defined in MPEP § 808.02." In the present case, the Examiner fails to provide Applicants with any information regarding separate status in the art. The Examiner does not state the number of classes that must be searched in order to properly examine the instant application. Furthermore, the Examiner does not state or imply that searching for all of the claims will create an undue burden for the Examiner. Therefore, the Applicants can only assume that an undue burden for searching does not exist.

In addition, the Examiner has failed to make a *prima facie* case of lack of unity of invention. As noted in MPEP 1893.03(d), when asserting a lack of unity of invention, it is incumbent upon the Examiner to "explain why each group lacks unity with each other group (i.e. why there is no single general inventive concept) *specifically describing the unique special technical feature* in each group [emphasis added]." The Examiner has failed to do so in the

instant case. Instead, the Examiner merely states, "The special technical feature of the first group is the particular method steps recited leading to the stated goal. This special technical feature is not shared by any of the other groups." The Examiner briefly states that the special technical feature of Groups II-IV are the structures of the products, while the special technical feature of Group V is the particular method steps. It is clear from the above short statements that the Examiner did not *specifically describe* the *unique special technical feature* in each group and *explain* why each group lacks unity with each other group as required by MPEP § 1893.03(d). The so-called "special technical features" pointed out by the Examiner are merely features common to *any* method claim or *any* composition claim. As such, the Restriction Requirement is deficient and should be withdrawn.

Finally, the Examiner states on page 2 of Restriction Requirement the Examiner states, "The claims should be amended to reflect the elected sequence." Applicants respectfully disagree. There is no rule requiring Applicants to amend the claims in response to a Restriction Requirement, especially when the Restriction Requirement is traversed.

For these reasons, Applicants believe that an undue burden for searching does not exist, and respectfully request that the Examiner rejoin all claims of the present invention and examine them together

Appl. No.: 09/856,662

in the present application. Alternatively, Applicants respectfully submit that the Examiner reclassify claims 14-17 into Group IV. An early and favorable action on the merits of the present application is earnestly solicited.

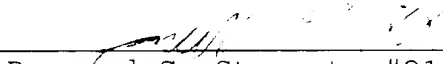
If the Examiner has any questions concerning this application, the Examiner is requested to contact Kristi L. Rupert, Ph.D. (Reg. No. 45,702) at (703) 205-8000.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

BIRCH, STEWART, KOLASCH & BIRCH, LLP

By


Raymond C. Stewart, #21,066

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RCS/KLR
0032-0261P

P.O. Box 747
Falls Church, VA 22040-0747
(703) 205-8000